

§ 1240.105

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or issued relating to the contribution; and

(8) An agreement to surrender all claims which such applicant may have for the use of such contribution by the Government.

(c) *General.* (1) Each contribution will be made the subject of a separate application in order that each contribution may be evaluated individually.

(2) Material constituting a possible hazard to safety or requiring unusual storage facilities should not be submitted, and will not be accepted. Models or intricate exhibits demonstrating the contribution will not be accepted unless specifically requested by the Board. In those few cases where such models or exhibits have been submitted pursuant to a request made by the Board, the same will be returned to the applicant upon written request from the applicant.

(3) It is the policy of the Board to use or disclose information contained in applications for awards for evaluation purposes only. Applications for awards submitted with restrictive legends or statements differing from this policy will be treated in accordance with the Board's policy.

[67 FR 31120, May 9, 2002, as amended at 77 FR 27366, May 10, 2012]

§ 1240.105 Special initial awards—NASA and NASA contractor employees.

(a) *Patent Application Awards.* (1) When the Board receives written notice, in the manner prescribed by the Board, from the Agency Counsel for Intellectual Property or the Patent or Intellectual Property Counsel at a NASA Center that an invention made by an employee of NASA or a NASA contractor and reported to NASA in the manner prescribed by the Board is eligible for a patent application award, the Board may recommend to the Administrator or a designee that an award be made, including a specific recommended amount and distribution thereof for any multiple inventors, so long as the following eligibility conditions have been met:

(i) A nonprovisional U.S. patent application has been filed covering the invention and NASA has either an ownership interest in the invention or an

irrevocable, royalty-free, license to practice the invention, or have the invention practiced for or on its behalf, throughout the world, or the invention has been assigned by NASA to a contractor under 35 U.S.C. 202(e); or

(ii) A continuation-in-part or divisional patent has been issued based on a patent application that is eligible for an award under paragraph (a)(1)(i) of this section.

(2) No additional award will be given for a continuation patent application where an award was authorized for the parent application and the parent application will be or has been abandoned. In addition, awards will not be granted for provisional applications under 35 U.S.C. 111(b) or reissue applications under 35 U.S.C. 251.

(b) *Software Release Awards.* (1) When the Board receives written notice, in the manner prescribed by the procedures of the Board, that a NASA Center has approved the initial (first) release to a qualified user of a software package based on a software innovation made by an employee of NASA or a NASA contractor and reported to NASA in the manner prescribed by the procedures of the Board, the Board may recommend to the Administrator or designee that an award be made, including a specific amount and distribution thereof for any multiple innovators, so long as the following conditions have been met:

(i) NASA has either an ownership interest in the software or an irrevocable, royalty-free, license to reproduce, prepare derivative works, distribute, perform and display the software, throughout the world for governmental purposes;

(ii) The software is of commercial quality as defined in § 1240.102; and

(iii) The software has been verified to perform the functions claimed in its documentation on the platform for which it was designed without harm to the systems or data contained within.

(2) Software that is the subject of a software release award is not eligible to receive a Tech Brief award based upon the publication of an announcement of availability in "NASA Tech Briefs."

(3) Software release awards for modifications made to software for which

the innovators have already received an initial software release award will be at the discretion of the Administrator or his designee, upon recommendation by the Board.

(c) *Tech Briefs Awards.* When the Board receives written notice, in the manner and format prescribed by the procedures of the Board, that a NASA Center has approved for publication a NASA Tech Brief based on an innovation made by an employee of NASA or a NASA contractor and reported to NASA in the manner and form prescribed by the procedures of the Board, the Board may recommend to the Administrator or designee that an award be made, including a specific amount and distribution thereof for any multiple innovators.

(d) When a Patent Application Award, a Software Release Award, and a Tech Brief Award have been authorized for the same contribution, the awards will be cumulative.

[77 FR 27366, May 10, 2012]

§ 1240.106 Review and evaluation of contribution.

(a) A contribution will be initially reviewed by the Board on the basis of the material submitted by the applicant under § 1240.104(b).

(b) If it is determined that the contribution has been used in a NASA program, or adopted or sponsored or supported by NASA, the contribution will be evaluated for its significant value in the conduct of aeronautical or space activity.

(c) The Board will recommend an award for such contribution when, upon evaluation of its scientific and technical merits, it is determined to warrant an award of at least \$500.

§ 1240.107 Notification by the Board.

(a) With respect to each completed application where the Board has recommended to the Administrator the granting of an award, and the Administrator has approved such award, the Board will notify the applicant of the amount and terms of the award. In the case of NASA employees or employees of NASA contractors, such notification will normally be made through the appropriate NASA field installation representative.

(b) Except for applications from NASA employees or employees of NASA contractors, where the Board does not propose to recommend to the Administrator the granting of an award, a notification will be provided which includes a brief statement of the reasons for such decision.

§ 1240.108 Reconsideration.

(a) With respect to each completed application, in those cases where the Board does not recommend an award, the applicant may, within such period as the Board may set but in no event less than 30 days from notification, request reconsideration of the Board's decision.

(b) If reconsideration has been requested within the prescribed time, the applicant will, within 30 days from the date of the request for reconsideration, or within any other time as the Board may set, file its statement setting forth the issues, points, authorities, arguments, and any additional material on which it relies.

(c) Upon filing of the reconsideration statement by the applicant, the case will be assigned for reconsideration by the Board upon the contents of the application, the record, and the reconsideration statement submitted by the applicant.

(d) If after reconsideration, the Board again does not propose to recommend the granting of an award, the applicant, after such notification by the Board, may request an oral hearing within the time set by the Board.

(e) An oral hearing without reconsideration may be granted upon determination of the Chairperson that good cause exists to do so.

[67 FR 31120, May 9, 2002, as amended at 77 FR 27367, May 10, 2012]

§ 1240.109 Hearing procedure.

(a) An Oral hearing held by the Board will be in accordance with the following procedures:

(1) If the applicant requests a hearing within the time set in accordance with § 1240.108(d) or (e), the Board will set a place and date for such hearing and notify the applicant.

(2) The applicant may be represented by an attorney or any other appropriately designated person.